

chambers [can be opened by exerting] opening in response to the exertion of pressure on the  
covering film.

### REMARKS

This amendment is being filed in response to the Final Office Action dated November 22, 2000. According to the Office action, claims 18-21 were rejected under 35 U.S.C. 112 second paragraph, because claim 18 claims a flexible base film and a flexible covering film, whereas claims 16-18 recite a flexible base foil and a flexible cover foil. The term foil was inappropriate, since the base and covering material do not have any metal characteristics. The word "foil" was used because of the translation from German into English. In order to more properly define the invention, the term "foil" in claims 16-18 has been changed to "sheet", and the specification was slightly amended on page 3, line 16 and 17 to recite a material without metal characteristics. The preferred embodiment describes the base layer as being made from polyamide/polyethylene, and the flexible covering layer as being made from sterilization kraft paper, neither of which have any metal characteristics. It is respectfully submitted that the rejection under 35 U.S.C. 112 second paragraph should be withdrawn.

As has been explained in the present application and in the prosecution thereof, the present invention is made from a flexible base layer and a flexible covering layer which are provided with chambers, each holding a swab. The chambers are formed by receiving depressions formed in the base layer with a covering layer being disposed on top of the

depressions. The depressions are sealed. The chambers can be opened to remove the swabs by pressing a finger against the covering layer, causing it to tear inwards.

The flexible nature of the invention is further evidenced by the fact that it can be rolled up as shown in Figure 2 or folded in a cortinaed (i.e. accordion-like) fashion.

Claims 16-21 have been rejected as being obvious from Zackheim (U.S. 3,162,306) in view of Moser et al. (U.S. 3,941,248). Zackheim discloses a very different type of package for holding pads. Unlike swabs, the pads of Zackheim are in the form of relatively small pieces suitably stamped or cut from a layer of sheet material. (Zackheim, col. 1, lines 11-13). The pads are assembled with other sheet material to form a single laminated package, with the pads being enclosed in individual pockets. The pads are provided from a product sheet, and the product sheet becomes part of the package laminate. (col. 1, lines 18-21; col. 1, lines 72-col. 2, lines 1-3). The package for pads of sheet material disclosed by Zackheim are not flexible as set forth in the claims of the present invention, but are stiff and thick. Zackheim describes his backing sheet 31 as being relatively heavy compared with the cover of the package and heavier than the product sheet from which the pads are cut. Zackheim says that the backing sheet should be 0.015 – 0.020 inches thick. (col. 3, lines 32-38). This is quite thick as indicated on the enclosure from "Printing Helper", which says that the average paper thickness is .001 inches and notes that the only thicknesses which exceed .010 inches are boards three-ply or over. This is shown on Exhibit 1 attached hereto. In addition to the backing sheet, the product sheet 34 is also formed from a relatively thick material, shown in the specification of Zackheim as being from 0.010 – 0.015 inches thick. (col. 3, line 59). The package of Zackheim is opened by means of a "breaking line" (col. 4, line 14, col. 4, line 61). Zackheim is clearly not flexible and could not be rolled up. In

addition, the chambers of Zackheim could not be broken up in response to the application of pressure on the flexible cover as recited in claims 16-21, but rather must be broken to remove tab 43 from the package as shown in Figures 18 and 20. This all indicates that Zackheim is not flexible as required to render obvious the present claims.

Moser et al. does not supply the subject recited in the present claims not disclosed in Zackheim. Moser et al. provides a childproof package for tablets, dragees, or the like, and has a complex way of opening the package to prevent children from having easy access to the stored material. The package of Moser et al. has a cavity 5 which is covered by the same cover foil which covers the cups for the tablets. The only way an individual package can be opened is by separating it from the entire package, and a grasping recess 7 is provided so that the cover foil 2 can be grasped and stripped from base foil 1. The Examiner states that Moser et al. discloses a roll of blister pack (this term does not appear in Moser et al.), and that the user could push through the lid to reach the contents. The latter was not found in Moser et al. either, but in order for this to be possible, the contents would have to be made of a firmly outlined shape to withstand and transmit the pressure. On the other hand, the present invention provides a flexible package which is clearly not firm enough to transmit the pressure and to tear the cover sheet. The medicinal swab in the invention defined in the claims would be compressed rather than pressed through. In addition, no one would press through the sheet or cover foil of Moser et al. to press the pill or tablet through the blister cup.

For the foregoing reasons, it is strongly urged that the invention presently defined in the claims is patentably distinguishable over Zackheim and Moser et al., and it is respectfully requested that these claims be deemed allowable over these references.

Claims 16-21 were rejected as being unpatentable over Reid (U.S. 4,574,954) in view of Moser et al. Reid discloses a bubble type pill dispenser closed at its back by a sheet of frangible material such that the bubble can be pushed inwardly to force the pill through the frangible material. A blister 18 extends from the peripheral plateau area 19 of the bubble 11. There is a break line around the blister, and the break line acts as a living hinge so that the blister can pop from being convex to being concave to push the pill through the frangible material. (Col. 1, lines 32-54; col. 3, lines 18-40). While the frangible sheet is frangible and very thin, the base sheet from which the bubbles are formed are relatively thick, at about 0.010 inches. (col. 3, line 11). There is no indication in Reid that the bubble-type pill dispenser has a flexible cover. While the blister can be rendered "inside-out" as shown in Figures 3-4, the upper plastic portions of the pill dispenser are not flexible. The pill dispenser of Reid could not be rolled up. The application of force to the blister to pop it inside-out is only possible if the content is of a firmly outlined shape to withstand and transmit the pressure. By contrast, the flexible base and cover of the present invention are clearly not firm enough to transmit the pressure to open and tear the cover sheet. If the medicinal swab were to receive such pressure, it would be compressed rather than transmitting its force and pressing through another layer of the package. Of course, as noted above no one would press the flexible portion of Reid to force the pill through the thicker blister pack.

The invention as defined in the present claims is clearly distinguishable from each of Moser et al., Zackheim or Reid, whether these patents are considered individually or in combination. They lack the flexibility feature of both sides of the package set forth in the

present application. It is therefore respectfully submitted that the application defined in the claims is patentably distinguishable over the art under 35 U.S.C. 103(a).

The Examiner is invited to telephone the undersigned if there are any issues, which could be discussed to expedite the prosecution.

The undersigned is the new attorney of record for this application. A copy of the Power of Attorney by Assignee of Entire Interest, which is being submitted separately for recordal on the PTO records, is enclosed.

Respectfully submitted,

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Enc. – Exhibit 1

#### CERTIFICATE OF MAILING

I hereby certify that the foregoing document (and any document or thing identified as being attached or enclosed herewith) is being deposited with the U.S. Postal Service as first class mail, postage prepaid, in an envelope addressed: Box AF, Commissioner for Patents, Washington DC 20231, on the date noted below.

Date: Jan 22, 2001

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